STATE OF CALIFORNIA—HEALTH AND WELFARE AGENCY

EDMUND G. BROWN JR., Governor

DEPARTMENT OF HEALTH SERVICES
714/744 P STREET
SACRAMENTO, CA 95814
(916) 445-1912

February 11, 1982

To: All County Welfare Directors

Letter No. 82-7

COPAYMENT (AB 251 REQUIREMENT)

This is to advise you that regulations relating to the copayment requirement of AB 251 were filed on an emergency basis with the Secretary of State on November 17, 1981. Although filed as emergency regulations effective immediately, these regulations are essentially technical and definitional. Copayment itself will not be implemented until a federal waiver is received.

From the attached copies of Section 128 of AB 251 and the copayment regulations (Attachments I and II) you can see that no action will be required of eligibility staff to identify individuals who must copay. When the federal waiver is received, you will be advised of the implementation date and of the information regarding copayment to be provided applicants and beneficiaries during the face-to-face interviews.

Included as Attachments III and IV are draft copies of the Provider Bulletin and Beneficiary Notification the Department intends to release prior to implementation of copayment.

If you have any questions please contact your Medi-Cal program consultant.

Sincerely,

Original signed by

Madalyn M. Martinez, Chief
Medi-Cal Eligibility Branch

Attachments
cc: Medi-Cal Liaisons
Medi-Cal Program Consultants

Attachment I - 1

Section 127.5 of this bill shall be operative only if this bill and Senate Bill 633 of the 1981–82 Regular Session are both chaptered, and this bill is chaptered last. Therefore, if Senate Bill 633 is not chaptered, or if Senate Bill 633 is chaptered after this bill, Section 127.5 of this bill shall not become operative.

SEC. 128. Section 14134 is added to the Welfare and Institutions Code, to read:

14134. A recipient of services under this chapter shall be required to make copayments as follows:

(a) Except for any person age 12 or under or any woman receiving perinatal care, a copayment of five dollars ($5) shall be made for nonemergency services received in an emergency room. For the purposes of this section, "nonemergency services" means any services not required for the alleviation of severe pain or the immediate diagnosis and treatment of severe medical conditions which, if not immediately diagnosed and treated, would lead to disability or death.

(b) Except for any person age 65 or over, any person age 12 or under, any person who has a chronic condition requiring multiple prescription as determined by that person's attending physician, or any person who is an inpatient in a facility as defined in Section 1250 of the Health and Safety Code, a copayment of one dollar ($1) shall be made for each drug prescription.

(c) Except for any person age 12 or under or any woman receiving perinatal care, a copayment of one dollar ($1) shall be made for each visit for services under subdivision (a) of Section 14132.

The above copayment amounts may be collected and retained or waived by the provider. The department shall not reduce the reimbursement otherwise due to providers as a result of such copayment. Such copayment amounts shall be in addition to any reimbursement otherwise due the provider for services rendered under this program.

No copayment shall be required from individuals eligible under the federal program of insurance for the aged and disabled for benefits which will be billed to that

Attachment I-2

program. The provisions of this section shall not apply to any services received by persons covered under the federal program of health insurance for the aged and disabled, for which claims for payment will be billed to the federal program.

SEC. 129. Section 14134.2 is added to the Welfare and Institutions Code, to read:

14134.2. The reimbursement rate for any three or more laboratory services for the same patient on the same day, which may be performed in an automated manner, shall be the reimbursement at the rate established for automated services. This provision shall not apply to emergency conditions nor for services performed in rural areas, as defined by the department.

SEC. 130. Section 14171 of the Welfare and Institutions Code is amended to read:

14171. (a) The director shall adopt regulations establishing an administrative appeal process to review grievances or complaints arising from the findings of an audit or examination made pursuant to Sections 10722 and 14170.

(b) The administrative appeal process established by the director shall guarantee a provider the right to present any grievances or complaints arising from the findings of an audit or examination made by or on behalf of the department pursuant to Sections 10722 and 14170 at an impartial hearing which shall include the procedural requirements of Chapter 5 (commencing with Section 11500), Part 1, Division 3, Title 2 of the Government Code. The impartial hearing shall be conducted by a hearing officer appointed by the director. The director may subcontract with the Office of Administrative Hearings to conduct hearings on cases involving complicated issues of fact or law, or to reduce the backlog of cases.

(c) Notwithstanding subdivision (b) of this section, the administrative appeal process established by the director shall commence with an informal conference with the provider, a representative of the department and the hearing officer. The hearing officer, when

Attachment II - 1

(1)

TITLE 22, DIVISION 3

MEDI-CAL COPAYMENTS

EMERGENCY REGULATIONS
FILED NOVEMBER 17, 1981

(R-50-81)

Estimated annual costs/savings to the Department:	0	(Gen. Fund $
Cost to any local agency or school district that is required to be reimbursed under Section 2231 of the Revenue and Taxation Code	: 0	
Other nondiscretionary costs/savings imposed on local agencies	: 0	
Costs/Savings in federal funding to the State	: 0	

Inquiries concerning the proposed administrative action may be directed to Ron C. Wetherall, Chief, Office of Regulations, at (916) 322-4990.

The express terms of the proposed action using underline to indicate additions to, and ~~dash-out~~ to indicate deletions from, the California Administrative Code are available to the public upon request by writing to the Office of Regulations, Department of Health Services, 714 P Street, Room 1601, Sacramento, CA 95814. The aforementioned address will be the location of public records, including reports, documentation, and other materials related to the proposed action.

The Department of Health Services has prepared a STATEMENT OF REASONS of the proposed action and the information on which it is relying in making its proposal as required by Section 11346.6 of the Government Code, available to the public upon request.

DEPARTMENT OF HEALTH SERVICES

R-50-81
5310

Original signed by

Dated: 12/8/81
December 8, 1981

Richard H. Koppes for
Beverlee A. Myers, Director

R-50-81

STATE OF CALIFORNIA—HEALTH AND WELFARE AGENCY EDMUND G. BROWN JR., Governor

DEPARTMENT OF HEALTH SERVICES
714/744 P STREET
SACRAMENTO, CA 95814
(916) 322-4990

NOTICE OF ADOPTION OF EMERGENCY REGULATIONS OF THE DEPARTMENT OF HEALTH SERVICES

The Department of Health Services will hold a public hearing commencing at 10:00 a.m. on March 10, , 1982, in the Auditorium at 714 P Street, Sacramento, California, at which any person may present statements or arguments orally or in writing relevant to the following regulations in Title 22, Division 3, of the California Administrative Code, summarized below which were adopted, amended or repealed and filed as an emergency on November 17, 1981. Statements or arguments submitted in writing must be received by the Department by 5:00 p.m. on March 10 , 1982, and should be addressed to the Office of Regulations, Department of Health Services, 714 P Street, Room 1601, Sacramento, CA 95814. At such time or at any time thereafter said Department of Health Services may certify such emergency action as provided in Section 11346.1, Government Code, or without further notice may repeal or amend said emergency actions.

The emergency action taken is pursuant to the authority vested by Sections 14105 and 14124.5 of the Welfare and Institutions Code, and Section 133.5, Chapter 102, Statutes of 1981 and Section 2, Chapter 237, Statutes of 1981, and is to implement, interpret or make specific Sections 14000, 14053 and 14134 of the Welfare and Institutions Code.

Informative Digest:

Recent legislation requires provider collection of copayment for specific services under certain conditions.

These changes define copayment and exempt the collection of copayment from the prohibition on beneficiary billing.

Specifically these regulation changes:

(1) Amend Section 51002 to exempt the collection of copayment from the prohibition on beneficiary billing.

(2) Adopt Section 51004 to define copayment and to describe its application to Medi-Cal services.

(3) Amend Section 51417 to exempt the collection of copayment from the prohibition on beneficiary billing.

(4) Amend Section 50501 to specify the instances when copayment may be collected and that the provider's payment will not be reduced by the amount of copayment.

STATEMENT OF REASONS

The purpose of these regulations is to provide specific authority for providers to collect copayment when applicable. These regulations implement, interpret, or make specific the legislative mandates of Chapter 102, Statutes of 1981 (AB 251, Section 128) which requires beneficiary copayment for specific services under certain conditions.

Section 51004 is adopted to define copayment and to describe its application to Medi-Cal services in accordance with legislative intent.

Sections 51002 and 51471 are amended to include provisions for collection of copayment from beneficiaries. Section 51501 is amended to specify the circumstances when copayment may be collected from the beneficiary.

STD. 400A (8-71)

CONTINUATION SHEET
FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE SECRETARY OF STATE
(Pursuant to Government Code Section 11380.1)

(1) Amend Section 51002 by adding subsection (a)(3) to read:

(3) Collect copayment pursuant to Welfare and Institutions Code Section 14134.

NOTE: Authority cited: Sections 10725, 14124.5 Welfare and Institutions Code, Section 133.5 of Chapter 102, Statutes of 1981 and a Section 2 of Chapter 237, Statutes of 1981.

Reference: Section 14134 Welfare and Institutions Code.

(2) Adopt new Section 51004 to read:

51004. Copayment.

(a) Copayment as used in these regulations refers to a specified amount of money which a beneficiary must expend for an outpatient visit to or by a provider, for each prescribed drug and for nonemergency services received in an emergency room as set forth in Welfare and Institutions Code Section 14134.

(b) A visit means all services provided on one occasion by one provider and billed on one claim.

(c) A drug prescription means a written instruction by a physician for the preparation and dispensing of a medicine.

(d) Perinatal care means services received during the full period of gestation and the first month following birth.

DO NOT WRITE IN THIS SPACE

STD. 400A (8-71)

CONTINUATION SHEET
FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE SECRETARY OF STATE
(Pursuant to Government Code Section 11380.1)

NOTE: Authority cited: Section 10725, 14124.5 Welfare and Institutions Code, Section 133.5 of Chapter 102, Statutes of 1981 and Section 2 of Chapter 237, Statutes of 1981.

Reference: Section 14134 Welfare and Institutions Code.

(3) Amend Section 51471 by adding (a) (3) to read:

(3) Collect copayments due under Section 51004.

NOTE: Authority cited: Welfare and Institutions Code 10725, 14124.5, Section Section 133.5 of Chapter 102, Statutes of 1981, and Section 2 of Chapter 237, Statutes of 1981.

Reference: Section 14134 Welfare and Institutions Code.

(4) Amend Section 51501 (c) to read:

(c) Payment by the Medi-Cal program for each outpatient visit which involves copayment, emergency room service which involves copayment and each prescribed drug which involves copayment shall not be reduced by the amount of copayment required by these regulations.

NOTE: Authority cited: Welfare and Institutions Code Section 14105, 14124.5, Section 133.5 of Chapter 102, Statutes of 1981 and Section 2 of Chapter 237, Statutes of 1981.

Reference: Sections 14000, 14053 and 14134 Welfare and Institutions Code.

DO NOT WRITE IN THIS SPACE

This agency certifies the attached orders are necessary for the immediate preservation of the public peace, health and safety or general welfare. The specific facts constituting the need for immediate action are:

STATEMENT OF FACTS

AB 251, Section 128, Chapter 102, Statutes of 1981, provides for beneficiary copayment for specific services under certain conditions. These regulations are necessary to define copayment and to exempt the collection of copayment from the prohibition on beneficiary billing.

AB 251 mandates the Department to adopt emergency regulations to implement the new statutory provisions applicable to the Medi-Cal program and that such adoption shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare within the meaning of Article IV of the Constitution.

COST STATEMENT:

No costs or savings to state, federal or local governments, school districts or small businesses as a result of these regulation changes.

Attachment III - 1

SUGGESTED PROVIDER NOTIFICATION
January 12, 1982

(Supplied by CWDA 82-23)

IMPORTANT PROVIDER NOTICE
BENEFICIARY COPAYMENT

State legislation passed in 1981 requires Medi-Cal recipients to make a nominal copayment for most outpatient services, some emergency room services, and some prescribed drugs. The term copayment as used in this legislation refers to a specified amount of money which a beneficiary must pay to their provider for each outpatient visit, for each prescribed drug, and for each nonemergency visit to an emergency room. Implementation of this law was postponed pending the receipt of necessary federal waivers which have now been obtained. The implementation date of the copayment legislation will be _____. Providers cannot collect copayment from recipients before that date.

General Provisions

For each type of service mentioned above, there are certain recipients who are exempt from copayments. These exceptions are listed below under the appropriate service. In addition to the exceptions listed below, copayment is never required for:

1. Persons who are also eligible for Medicare benefits (cross-over beneficiaries). These are persons 65 years of age or older, or who have a "Medicare" indicator on their Medi-Cal card (see page _____ of this manual); or

2. Children in boarding homes or institutions for foster care. These persons can be identified by aid codes _____ (see page _____).

Specific Copayment Provisions and Exceptions

Welfare and Institutions Code, Section 14134 has been amended by AB 251 (Statutes of 1981, Chapter 102) to require copayment as follows:

1. Nonemergency Services in an Emergency Room

A copayment of $5 is required for nonemergency services received in an emergency room. "Nonemergency services" are defined as "any services not required for the alleviation of severe pain or the immediate diagnosis and treatment of severe medical conditions which if not immediately diagnosed and treated would lead to disability or death".

Exceptions

Children age 12 or under or any woman receiving services during pregnancy and the month following birth are not required to make copayments for any emergency room services.

2. Drug Prescriptions

A copayment of $1 is required for each drug prescription.

Exceptions

The following categories of persons are not required to make copayments for drug prescriptions:

a. Age group 65 or over; 12 or under;

b. Inpatient in a health facility (hospital, skilled nursing facility, intermediate care facility);

c. Persons having a chronic condition requiring multiple prescriptions as determined by that person's attending physician. In this case the physician should write on the prescription form "chronic condition" or "no copayment". Otherwise, the pharmacist may be expected to collect the copayment.

3. Outpatient Services

A copayment of $1 is required for the following outpatient services:

Physician	Optometric
Hospital or clinic outpatient	Chiropractic
Surgical center	Psychology
Podiatric	Audiology
Occupational Therapy	Acupuncture
Physical Therapy	Dental
Speech Therapy	

Exceptions

The following categories of persons are not required to make a copayment for any of the above outpatient services.

a. Persons age 12 or under;

b. Women receiving services during pregnancy and the month following birth;

c. Persons who are inpatients in a health facility (hospital, nursing facility, intermediate care facility, etc.).

4. General Exclusion

As previously indicated, in addition to the above mentioned specific exceptions, copayment will not be required of:

a. Persons who are also eligible for Medicare benefits (cross-over beneficiaries); or

b. Children in boarding homes or institutions for foster care.

Collection of Copayment

The copayment amount is to be collected by, or obligated to the provider at the time the service is rendered. The amounts are in addition to the usual provider reimbursement and no deduction will be made from the amounts otherwise paid to the provider by Computer Science Corporation. It is up to the provider to determine whether or not the collection of copayment is indicated, in accordance with the foregoing criteria.

The collection of the copayment by the provider is optional. It may be waived entirely at her or his discretion.

Enclosed with this bulletin is a chart for easy reference to the above classifications and exclusions.

MF:lm/g

COPAYMENT CRITERIA

Services Subject to Copayment	Nonemergency Services Provided in an Emergency Room	Drug Prescriptions	Outpatient Services
Scope of Service	Nonemergency services are defined as "any services not required for the alteration of severe pain or the immediate diagnosis and treatment of severe medical conditions which, if not immediately diagnosed and treated would lead to disability or death". Such services provided in an emergency room would be subject to copayment.	Each drug prescription	Physician, optometric, chiropractic, psychology, speech therapy, audiology, acupuncture, dental, occupational therapy, podiatric, surgical center, hospital or clinic outpatient, physical therapy
Fee * (to be collected at option of the provider)	$ 5.00	$ 1.00	$ 1.00
Exceptions * to Fee	1. Children age 12 or under 2. Any woman receiving services during pregnancy and the month following birth	1. Children age 12 or under 2. Persons age 65 or older 3. Inpatients in a health facility (hospital, SNF, ICF) 4. Persons having a chronic condition requiring multiple prescriptions as determined by that person's attending physician. (Physician should state chronic condition or no copayment on prescription)	1. Children age 12 or under 2. Women receiving services during pregnancy and the month following birth 3. Persons who are inpatients in a health facility (hospital, SNF, ICF)

*Copayment is NEVER required for: 1. Persons eligible for Medicare benefits;
2. Children in boarding homes or institutions for foster care.

Attachment IV – 1

YOUR PROVIDER OF MEDICAL SERVICE MAY ASK FOR COPAYMENT

A new state law requires many Medi-Cal recipients to pay a small amount of money each time they get a medical service or prescribed drug. This is called a "copayment." No copayment is required for any person who is also eligible for Medicare or for children living in boarding homes or institutions for foster care. This new law will be effective 10, 1981. The copayment will be collected by your provider at the time the service is rendered. Providers also have the option of not collecting copay.

You should read this card carefully to know when you might have to make copayment.

1. You must pay $5 for any nonemergency service received in a hospital emergency room, except for children aged 12 or under or women receiving perinatal care (services during pregnancy and the month following birth). To avoid this charge, you should go to the emergency room only when you believe it is necessary that you urgently require immediate medical attention. If the doctor decides that your visit was not really an emergency, you may have to pay $5. If you need prompt medical care but it is not truly an emergency, you should contact your physician or local outpatient clinic.

2. You must pay $1 for each drug prescription, except for persons aged 65 or over, 12 or under, persons who are inpatients in a health facility, such as a hospital or nursing home, and any person who has a chronic condition (for example, hypertension or diabetes) which requires more than one prescription. If you have a chronic condition which requires more than one prescription, your doctor should note this on your prescriptions so that the pharmacy will know not to charge you for copayment.

3. You must pay $1 per visit for the following outpatient services: physician, hospital or clinic outpatient, surgical center, optometric, chiropractic, psychology, podiatric, occupational therapy, physical therapy, speech therapy, audiology, acupuncture, and dental. Children aged 12 or under, women receiving care during pregnancy or the first month after birth, and persons who are inpatients in a health facility do not have to pay the $1 charge.

If you have any questions about whether you have to make a copayment, please call your local county welfare department or the Department of Health Services, Medi-Cal Relations Unit, at (916) 445-0266.